

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 298

**46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

INTRODUCED BY

Antonio Lujan

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO HEALTH INSURANCE; ADDING AN INSURANCE PROGRAM TO  
THOSE CURRENTLY OFFERED BY THE NEW MEXICO HEALTH INSURANCE  
ALLIANCE; PERMITTING ADDITIONAL SERVICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Health Insurance Alliance  
Act is enacted to read:

"[NEW MATERIAL] PLAN INCLUDED.--The board shall adopt  
rules to include in the approved health plans offered by the  
alliance that health insurance program created by the human  
services department pursuant to the federal health insurance  
flexibility and accountability demonstration initiative  
approved for New Mexico August 23, 2002."

Section 2. Section 59A-56-8 NMSA 1978 (being Laws 1994,  
Chapter 75, Section 8, as amended) is amended to read:

.149277.1

underscored material = new  
[bracketed material] = delete

1 "59A-56-8. APPROVED HEALTH PLAN.--

2 A. An approved health plan shall conform to the  
3 alliance's approved health plan design criteria. The board may  
4 allow more than one plan design for approved health plans. A  
5 member may provide one approved health plan for each plan  
6 design approved by the board.

7 B. The board shall designate plan designs for  
8 approved health plans. The board may designate plan designs  
9 for an approved health plan that provides catastrophic coverage  
10 or other benefit plan designs. The board shall designate plan  
11 designs that include services provided by a preferred provider  
12 arrangement or by a point of service plan.

13 C. Each approved health plan shall offer a premium  
14 that is no greater than fifteen percent over and no less than  
15 fifteen percent under the average of the standard rate index  
16 for plans with the same characteristics.

17 D. Each approved health plan offered to an eligible  
18 individual shall offer a premium that is no more than twenty-  
19 five percent over and no less than twenty-five percent under  
20 the average of the standard risk rate index determined pursuant  
21 to Section 59A-56-23 NMSA 1978.

22 E. Any member that provides or offers to renew a  
23 group health insurance contract providing health insurance  
24 benefits to employees of the state, a county, a municipality or  
25 a school district for which public funds are contributed shall

.149277.1

underscored material = new  
[bracketed material] = delete

1 offer at least one approved health plan to small employers and  
2 eligible individuals; provided, however, if a member does not  
3 offer anywhere in the United States a plan that meets  
4 substantially the design criteria of an approved health plan,  
5 the member shall not be required to offer an approved health  
6 plan.

7 F. If a plan design approved by the board is not  
8 offered by any member already offering an approved health plan,  
9 but a member offers a substantially similar plan design outside  
10 the alliance, the board may require the member to offer that  
11 plan design as an approved health plan through the alliance.

12 G. A member required to offer, and offering, an  
13 approved health plan pursuant to the requirement of Subsection  
14 E of this section shall continue to offer that plan for five  
15 consecutive years after the date the member was last required  
16 to offer the plan. A member offering an approved health plan  
17 but not required to offer it pursuant to the cited subsection  
18 may withdraw the plan but shall continue to offer it for five  
19 consecutive years after the date notice of future withdrawal is  
20 given to the board unless:

21 (1) the member substitutes another approved  
22 health plan for the plan withdrawn; or

23 (2) the board allows the plan to be withdrawn  
24 because it imposes a serious hardship upon the member.

25 H. No member shall be required to offer an approved

underscored material = new  
[bracketed material] = delete

1 health plan if the member notifies the superintendent in  
2 writing that it will no longer offer health insurance, life  
3 insurance or annuities in the state, except for renewal of  
4 existing contracts, provided that:

5 (1) the member does not offer or provide  
6 health insurance, life insurance or annuities for a period of  
7 five years from the date of notification to the superintendent  
8 to any person in the state who is not covered by the member  
9 through a health insurance policy in effect on the date of the  
10 notification; and

11 (2) with respect to health or life insurance  
12 policies or annuities in effect on the date of notification to  
13 the superintendent, the member continues to comply with all  
14 applicable laws and regulations governing the provision of  
15 insurance in this state, including the payment of applicable  
16 taxes, fees and assessments."

17 Section 3. Section 59A-56-14 NMSA 1978 (being Laws 1994,  
18 Chapter 75, Section 14, as amended) is amended to read:

19 "59A-56-14. ELIGIBILITY--GUARANTEED ISSUE--PLAN  
20 PROVISIONS.--

21 A. A small employer is eligible for an approved  
22 health plan if on the effective date of coverage or renewal:

23 (1) at least fifty percent of its employees  
24 not otherwise insured elect to be covered under the approved  
25 health plan;

.149277.1

underscored material = new  
[bracketed material] = delete

1 (2) the small employer has not terminated  
2 coverage with an approved health plan within three years of the  
3 date of application for coverage except to change to another  
4 approved health plan; and

5 (3) the small employer does not offer other  
6 general group health insurance coverage to its employees. For  
7 the purposes of this paragraph, general group health insurance  
8 coverage excludes:

9 (a) coverage providing only a specific  
10 limited form of health insurance such as accident or disability  
11 income insurance coverage or a specific health care service  
12 such as dental care; and

13 (b) a plan offered by the alliance  
14 created by the human services department pursuant to the  
15 federal health insurance flexibility and accountability  
16 demonstration initiative approved for New Mexico August 23,  
17 2002.

18 B. An individual is eligible for an approved health  
19 plan if on the effective date of coverage or renewal he meets  
20 the definition of an eligible individual under Section 59A-56-3  
21 NMSA 1978.

22 C. An approved health plan shall provide in  
23 substance that attainment of the limiting age by an unmarried  
24 dependent individual does not operate to terminate coverage  
25 when the individual continues to be incapable of self-

.149277.1

underscored material = new  
[bracketed material] = delete

1 sustaining employment by reason of developmental disability or  
2 physical handicap and the individual is primarily dependent for  
3 support and maintenance upon the employee. Proof of incapacity  
4 and dependency shall be furnished to the alliance and the  
5 member that offered the approved health plan within one hundred  
6 twenty days of attainment of the limiting age. The board may  
7 require subsequent proof annually after a two-year period  
8 following attainment of the limiting age.

9 D. An approved health plan shall provide that the  
10 health insurance benefits applicable for eligible dependents  
11 are payable with respect to a newly born child of the family  
12 member or the individual in whose name the contract is issued  
13 from the moment of birth, including the necessary care and  
14 treatment of medically diagnosed congenital defects and birth  
15 abnormalities. If payment of a specific premium is required to  
16 provide coverage for the child, the contract may require that  
17 notification of the birth of a child and payment of the  
18 required premium shall be furnished to the member within  
19 thirty-one days after the date of birth in order to have the  
20 coverage from birth. An approved health plan shall provide  
21 that the health insurance benefits applicable for eligible  
22 dependents are payable for an adopted child in accordance with  
23 the provisions of Section 59A-22-34.1 NMSA 1978.

24 E. Except as provided in Subsections G, H and I of  
25 this section, an approved health plan offered to a small

.149277.1

underscored material = new  
[bracketed material] = delete

1 employer may contain a preexisting condition exclusion only if:

2 (1) the exclusion relates to a condition,  
3 physical or mental, regardless of the cause of the condition,  
4 for which medical advice, diagnosis, care or treatment was  
5 recommended or received within the six-month period ending on  
6 the enrollment date;

7 (2) the exclusion extends for a period of not  
8 more than six months after the enrollment date; and

9 (3) the period of the exclusion is reduced by  
10 the aggregate of the periods of creditable coverage applicable  
11 to the participant or beneficiary as of the enrollment date.

12 F. As used in this section, "preexisting condition  
13 exclusion" means a limitation or exclusion of benefits relating  
14 to a condition based on the fact that the condition was present  
15 before the date of enrollment for coverage for the benefits  
16 whether or not any medical advice, diagnosis, care or treatment  
17 was recommended or received before that date, but genetic  
18 information is not included as a preexisting condition for the  
19 purposes of limiting or excluding benefits in the absence of a  
20 diagnosis of the condition related to the genetic information.

21 G. An insurer shall not impose a preexisting  
22 condition exclusion:

23 (1) in the case of an individual who, as of  
24 the last day of the thirty-day period beginning with the date  
25 of birth, is covered under creditable coverage;

.149277.1

underscored material = new  
[bracketed material] = delete

1 (2) that excludes a child who is adopted or  
2 placed for adoption before his eighteenth birthday and who, as  
3 of the last day of the thirty-day period beginning on and  
4 following the date of the adoption or placement for adoption,  
5 is covered under creditable coverage; or

6 (3) that relates to or includes pregnancy as a  
7 preexisting condition.

8 H. The provisions of Paragraphs (1) and (2) of  
9 Subsection G of this section do not apply to any individual  
10 after the end of the first continuous sixty-three-day period  
11 during which the individual was not covered under any  
12 creditable coverage.

13 I. The preexisting condition exclusions described  
14 in Subsection E of this section shall be waived to the extent  
15 to which similar exclusions have been satisfied under any prior  
16 health insurance coverage if the effective date of coverage for  
17 health insurance through the alliance is made not later than  
18 sixty-three days following the termination of the prior  
19 coverage. In that case, coverage through the alliance shall be  
20 effective from the date on which the prior coverage was  
21 terminated. This subsection does not prohibit preexisting  
22 conditions coverage in an approved health plan that is more  
23 favorable to the covered individual than that specified in this  
24 subsection.

25 J. An approved health plan issued to an eligible

.149277.1

underscored material = new  
[bracketed material] = delete

1 individual shall not contain any preexisting condition  
2 exclusion.

3 K. An individual is not eligible for coverage by  
4 the alliance under an approved health plan issued to a small  
5 employer if he:

6 (1) is eligible for medicare; provided,  
7 however, if an individual has health insurance coverage from an  
8 employer whose group includes twenty or more individuals, an  
9 individual eligible for medicare who continues to be employed  
10 may choose to be covered through an approved health plan;

11 (2) has voluntarily terminated health  
12 insurance issued through the alliance within the past twelve  
13 months unless it was due to a change in employment; or

14 (3) is an inmate of a public institution.

15 L. The alliance shall provide for an open  
16 enrollment period of sixty days from the initial offering of an  
17 approved health plan. Individuals enrolled during the open  
18 enrollment period shall not be subject to the preexisting  
19 conditions limitation.

20 M. If an insured covered by an approved health plan  
21 switches to another approved health plan that provides  
22 increased or additional benefits such as lower deductible or  
23 co-payment requirements, the member offering the approved  
24 health plan with increased or additional benefits may require  
25 the six-month period for preexisting conditions provided in

.149277.1

underscoring material = new  
[bracketed material] = delete

1 Subsection E of this section to be satisfied prior to receipt  
2 of the additional benefits."

3 - 10 -  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25